

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

EUGENE R. HAFFKE. ET AL.

v.

ROBERT T. DRY

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§

Case No. 4:11CV583

Judge Schneider/Judge Mazzant

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On October 14, 2011, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that this case be dismissed with prejudice, as the case is frivolous because it lacks an arguable basis in law or fact because Defendant is entitled to judicial immunity.

Plaintiff Eugene Haffke objects to the Magistrate Judge's recommendation that Judge Dry is immune from suit and that the case should be dismissed. The Court agrees that Judge Dry has immunity and that the case should be dismissed. Plaintiffs attempt to assert a civil rights action against Judge Dry. This attempt fails, because a review of the complaint illustrates that every assertion against Judge Dry revolves around how Judge Dry handled a case involving Plaintiffs. If Judge Dry failed to follow Texas law or Texas procedures in handling the underlying case, Plaintiffs had a remedy – an appeal to the 5th District Court of Appeals. No facts are alleged that would strip Judge Dry of his immunity. Furthermore, allowing amendment would be futile. Therefore, the Court, having made a *de novo* review of the objections of Plaintiff Eugene Haffke, is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections are without merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as

the findings and conclusions of this Court.

It is, therefore, **ORDERED** that this case is **DISMISSED** with prejudice.

It is SO ORDERED.

SIGNED this 4th day of November, 2011.

A handwritten signature in black ink, reading "Michael H. Schneider". The signature is written in a cursive, flowing style. The first name "Michael" is written in a larger, more prominent script, and the last name "Schneider" follows in a similar but slightly smaller script. The signature is positioned above a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE